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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,675	07/31/2003	William Romanuskas	87334.5740	7663
7590 06/26/2006			EXAMINER	
BAKER & HOSTETLER LLP Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. WASHINGTON, DC 20036			NAGPAUL, JYOTI	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/630,675	Applicant(s) ROMANAUSKAS ET AL.	
	Examiner Jyoti Nagpaul	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-22 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment filed on April 10, 2006 has been acknowledged. Claims 1-3 and 5-22 are pending.

Response to Amendment

Rejection of Claims 1-3 and 12-18 as being anticipated by EP 139 289 (herein '289') has been modified in light of applicant's amendments.

Rejection of Claims 4-11 as being unpatentable over '289 in view of Hagen has been modified in light of applicant's amendments.

Rejection of Claims 19-22 as being anticipated by Hagen has been withdrawn in light of applicant's amendments.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3,5-8, 12-19 and 21** are rejected under 35 U.S.C. 102(b) as being anticipated by EP 139 289 (herein '289').

'289 teaches a seal assembly for a centrifuge bottle. The container/bottle comprises a closed end, an open end and a closure assembly, wherein the closed end and the open end are substantially equal in diameter and the closure assembly releasably seals the open end. '289 further teaches the container (B) is cylindrical. The container (B) further includes a lug surface (H) and a vertical inner surface disposed at

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open end. '289 further teaches a closure assembly comprises a handle (C), a flange (K), a hold down ring (24), a sealing ring (22) and a bottom support (N). The hold down ring (24) is a flexible material. (See pg 7, lines 1-5) The sealing ring (22) is an O-ring. (See pg 6, Lines 1-3) The flange (K) includes at least one stop and at least one slot (H). (See Figure 3) The handle (C) includes a male threaded bottom surface and the bottom support (N) includes a key protrusion (F) and a female threaded top surface (J). (See Figure 3) '289 further teaches a bottom support (N) having threads (J) wherein the flange (K) is configured to mate with the opened end and the hold down ring (24) and the sealing ring (22) are disposed between the bottom support (J), the flange (K) and the opened end. (See Figure 3) '289 further teaches placing the sealing ring (22) on the bottom support (N), placing the hold down ring (24) on the sealing ring (22), inserting the flange (K) onto the bottom sandwiching the sealing ring (22) and the hold down ring (24) in between and then connecting the handle to the bottom support (N) and inserting the closure assembly into an open end of the sample container/bottle (B). (See Figure 3) '289 does not explicitly state rotating the closure assembly. However, it is clear that some rotation of the closure assembly will occur by the user to ensure a locked position to effect a static seal. '289 further teaches the handle (C) and the bottom support (N) are complimentary threaded. (See Figures 3 and 4) The bottom support includes a key protrusion (J).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claims 9-11,20 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over '289 in view of Hagen.

Refer above for the teachings of '289.

'289 fails to teach a handle comprises a closed finger for locking and an open finger for unlocking the closure assembly.

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Hagen teaches a sample container (6). The container comprises of means for locking/lock and key attachment (19) the container (6). The means for locking is a closed finger (19) and means for unlocking is an open finger (19). Hagen further teaches means for sealing the container/ O-ring seal. (See Col. 12, Lines 39-43)

It would have been obvious to one of the ordinary skill in this art at the time of the invention by applicant to modify the system of '289 such that the handle includes a closed finger for locking and an open finger for unlocking the closure assembly in order increase the sealing ability between the handle and the bottom support an also increasing a moisture-tight seal.

Response to Arguments

Amendment filed on April 10, 2006 has been acknowledged. Claims 1-3 and 5-22 are pending. Rejection of Claims 1-3 and 5-22 have been modified in light of applicant's amendments. Refer above. Applicants argue that the Applicants' "hold down ring and sealing ring are placed in a space defined by the container, the flange and the bottom support", applicant is not claiming this. Applicant's merely claims "a bottom support having threads to releasably mate with the handle wherein the flange is configured to mate with the opened end and the hold down ring and the sealing ring are disposed between the bottom support, the flange and the opened end."

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JN


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